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COMMUNITY REINVESTMENT ACT

USING THE CRA AS A FUNDING MECHANISM FOR LEAD PROGRAMS

It is a pleasure to share our experience as to how this legislation may be utilized as a resource by **HUD Lead Grant Programs** and most government HUD-funded programs with community development, social service, and health program components. The key is to understand the basic components of this law, how to adapt your program, and how to access your local financial community to secure funds, which are there. The result is an increase in private sector participation and resources in the fight against childhood lead poisoning - something we have all wanted. This document applauds the work of Pierre Erville, then with the Alliance To End Childhood Lead Poisoning, who first explored the potential pathways of utilizing the CRA to prevent childhood lead poisoning. These guidelines are a product of the **Long Beach Lead-Safe Affordable Housing Program**, a HUD-funded Lead Grantee Program with the City of Long Beach Department of Health and Human Services, Long Beach, CA.

Part I

What is the CRA and How Does it Work?

The **Community Reinvestment Act of 1977** also called the **"CRA"** was created by Congress to encourage depository institutions to help meet the credit needs of all communities in which they were chartered to operate including low-and moderate-income neighborhoods, consistent with safe and sound banking practices.

This law has provided a framework for depository institutions and community organizations to work together to promote the availability of credit, investment, and other banking services to underserved communities. Under its impetus, banks have opened new branches, provided expanded services, adopted credit underwriting standards, and made substantial commitments to state and local governments and community development organizations to increase lending and investment to underserved segments of local economies and populations.

CRA Goals and Objectives

The core activity of the CRA is the implementation of

The CRA requires a periodic review or "performance evaluation" of each depository institution's record in helping meet the credit needs of all the communities and populations in its service area. This performance evaluation of an institution is done every 1-2 years by a regulatory agency (there are four) with the primary federal financial supervisory agency (there are four) with authority over that institution.

CRA – Federal Financial Institution Regulators

The application of the CRA has been standardized among the four regulatory agencies via the Interagency Consumer Compliance Task Force of the Federal Financial Institutions Examination Council (FFIEC). The four federal regulatory agencies are the:

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1) **Office of the Controller of the Currency (OCC)** regulates all nationally-chartered banks
2) **Office of Thrift Supervision (OTS)** regulates federally and state-chartered savings banks and S & L's
3) **Federal Reserve Board (FRB)** is primary regulator of all insured state-chartered member banks
4) **Federal Deposit Insurance Corporation (FDIC)** regulates non-FRB state-chartered banks

This record of performance, including a "CRA Rating", is taken into account in the consideration of an institution's application for additional deposit facilities, ATM's, mergers and acquisitions.

There are four **CRA Ratings**:

1) **Outstanding***
2) **Satisfactory***
3) **Needs to Improve, and**
4) **Substantial Noncompliance**

*Depository institutions (commercial lenders) are highly motivated to raise a "**Needs to Improve**" or a "**Substantial Non-Compliance**" CRA rating to a "**Satisfactory**" or "**Outstanding**" rating which then allows an institution to expand their services or acquire or be acquired (merge) with other financial institutions (both very profitable, desirable, and frequent activities in the banking industry).

The CRA's main goal is to provide an incentive for lenders to provide credit (lending) for underserved populations throughout the service area of the lender's charter. However, investment and service comprise important secondary alternative measures when an institution has not distributed or facilitated access to credit in a uniform manner.

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CRA Evaluation Requirements

Each of these three key activities **(<u>lending</u>, <u>investment</u>, and <u>service</u>)** are scrutinized in evaluating a depository institution's performance relative to CRA requirements, which are dependent on the size of the institution (large, mid-size, small), its business strategy, and how innovative they are in terms of application.

In 1995, CRA regulations were substantially revised to put greater emphasis on performance, and establish different evaluation tests for different kinds of institutions, as follows:

1) Large banks are evaluated under a 3-part lending, investment, and service test

2) Streamlined procedures with an emphasis on lending were adopted for small institutions

3) Wholesale and limited purpose banks are evaluated under a community development test which can include the evaluation of a mix of credit or lending, investments, and service activities

To determine CRA compliance, the performance of depository institutions are "tested" or "examined" for the following three criteria:

1) the **<u>lending test</u>** evaluates an institution's lending performance by assessing, among other things, the distribution of small business loans, home mortgages, extensions of credit, etc., it makes in its assessment area

2) the **<u>investment test</u>** evaluates performance by assessing, among other things, the dollar amount, innovativeness or complexity, and responsiveness of the institution's <u>qualified investments</u>* *(important for Lead Programs)* in the assessment area or broader statewide or regional area

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3) the **service test** evaluates the institution's performance by assessing the availability and effectiveness of its systems for delivering retail banking services and the extent and innovativeness of its community development services in its assessment or broader area

In addition, any institution may be evaluated under its **strategic plan**, which addresses lending, investment, and services (as appropriate) and must be approved by its regulatory agency. Strategic plans are often utilized in mergers, to offer a future view of how combined resources will be allocated. The "CRA Exam and Performance Evaluation" results are available at the local bank, upon request, and are also posted on its regulatory agency's web site.

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Part II

Relevant Aspects of the CRA and Community Reinvestment for all HUD Lead, Community Development, and Service Programs

CRA and Qualified Investments

When a depository institution has a less than Satisfactory record of performance in lending and extending credit (poor **lending** test score) in underserved areas, it may increase its lending in these areas (which takes time), or it may utilize the **Qualified Investment** option to compensate in a rather quick fashion for its under-lending.

A **Qualified Investment (QI)** is an offering of funds by a commercial lender (bank) for **community development** purposes. It may be a:

1) QI (with return), i.e., the original sum is expected to be returned to the lender, usually without interest, or a

2) QI (without return) or a "grant," which supports a community development activity

"Community development activities," under the CRA, can include the financing of small businesses and farms, childcare, educational, job training, health, or social services targeted to low-or moderate-income persons, or to affordable housing, and can include other activities that revitalize or stabilize low- or moderate-income areas.

The use of QI's to fund community development activities (usually through a non-profit organization) that address an array of needs of low-income families, e.g., health, job training, employment, affordable housing, etc., are seen as innovative approaches to revitalizing or stabilizing "low- to moderate-income areas" or "geographies."

QI's that support "innovative approaches" to the revitalization or stabilization of "low- to mod geographies" are given higher ratings by regulators doing performance evaluations on lenders. These lenders desire stable and innovative projects and programs that perform multiple "community development" tasks as recipients for their QI's. This results in obtaining a higher CRA rating.

CRA Legislative Update

In 1999 the CRA was amended under the **"Gramm-Leach-Bliley Act of 1999"** also known as the **"Financial Modernization Act of 1999"**. The impact of the change is as follows:

1) It allows banks, insurance, and security companies to own each other and/or overlap services (creates "financial holding companies")

2) It requires more detailed documentation (annual – audit reporting and disclosure) of the disposition and use of QI's ≥ $10,000 and community reinvestment loans ≥$50,000

3) It may result in fewer QI's being made at or above the thresholds of these requirements

CRA and HUD Lead Programs

Qualified Investments (QI's) of Depository Institutions are allocated to the following categories in these approximate ratios: *(derived by informal survey)*

1)	**Affordable Housing Programs***	40%
2)	**Small Business Development***	25%
3)	**Job Training Programs***	20%
4)	**Education, Health, Child Care, etc.***	15%

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*Please note that essentially all the components of HUD Lead Programs (above) are eligible community development categories for QI's (Note: **Small Business Development**, **Job Training Programs, and Education** all satisfy Section 3 requirements)

HUD Lead Grant Programs <u>are desirable</u> for QI's because they:

1) are financially stable in terms of known present and future cash flow

2) provide a large array of community development activities in one program package, including: job training, affordable housing preservation and enhancement, employment, education, blood lead testing , etc. for low-income families

3) potentially offer the donating institution a <u>high-profile</u> opportunity including political figures (e.g., the mayor, city council, board of supervisors, et. all.) and human interest appeal for giving their QI in a highly visible and public manner, e.g. a press release, press conference, or media coverage of a lender or group of lenders presenting a City Council or Board of Supervisors with a check for a QI

RECIPIENTS OF QUALIFIED INVESTMENTS

Lenders may provide financial support (QI's-Grants) for any cause or organization, which supports Community Development. However, at this time CRA credit is granted for support of:

1) **CDFI's** (Community Development Financial Institutions)

2) **Community Development Corporations** (AKA: Community Action Agencies)

3) Non-Profit Organizations

In general, lender funds can flow directly to a Non-Profit organization or pass through a CDFI or Community Action Agency to the Non-Profit.

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[Refer To Flowchart On Next Page]

Part III

Preparing and Structuring Your Program

Staffing: One of the key professional staff, e.g. the Project Director, Program Manager, or Analyst, should take responsibility for financial sector outreach and partnering. (The utility and information offered in this guidebook will minimize the time required for this activity to, at most, a few hours per month.) There may be a friend or contact in the local financial community who would like to assist. (Their institution may receive CRA service credit for helping you.)

Using / Developing Available Assets:

1) Establish relationships with the public relations and lender / financial institutions contact persons for your jurisdiction / agency

2) Invite their input and ideas in your planning process; solicit their advice

Suggestion: Design market-mechanisms and affordable housing components / linkages into your program. Grantees that generate "program income" which can leverage HUD funds or extend a program beyond the period of HUD funding, point toward the long-range and successful solutions of this problem.

FYI: **24 CFR Part 85.25 "Program Income (a) General.** Grantees are encouraged to earn income to defray program costs…"

ESTABLISH A RELATIONSHIP WITH A NON-PROFIT

STEP ONE: To facilitate the flow of QI funds to benefit the HUD Lead Grantee Program, establish a formal *JOINT VENTURE* with a responsible non-profit organization partner that has a similar mission (lead poisoning prevention, affordable housing, child health, education, etc.)

Special Considerations:

a) Try to select a non-profit with ties to or based within a HUD CPD program
b) Require a formal written agreement, i.e., a contract or MOU
c) The non-profit must be audited regularly by a reputable CPA firm (could be a lender's "service" to the program)

STEP TWO: The HUD Lead Grantee and the non-profit establish a *MUTUAL TRUST ACCOUNT*, which acts like a holding account or "pass-through" for receiving QI's for the HUD Program

Special Considerations:

a) The Trust Account should be "one-way", special purpose account. i.e., once the funds are deposited, they may only be withdrawn to support lead poisoning prevention efforts conducted by the HUD grant program
b) The non-profit may need an "incentive", e.g., splitting or receiving all interest on the funds

RULES

1) Go to CFR's; review sections **24 CFR 82.21(f); 24 CFR 85.25(c) and (g)**
2) Design program with Program Income as an "Additive" option; request contract modification of your current HUD grant to stipulate use of Program Income in this manner

3) Accumulate Program Income funds outside program in the trust account
4) Draw-down Program Income funds from the non-profit each quarter; expend accrued Program Income funds prior to requesting any HUD draw-down
5) Specifically identify and list the Program Income funds that have been obligated and/or expended in your Quarterly Narrative Report and show amount(s) in the Financial Status Report (SF-269)

Part IV

Program Startup or "Time to Get the Lead Out"

<u>Scheduling:</u>
Allow a 3-month preparation period including selection of a non-profit, establishment of a contract and trust account, locating and identifying allies in the local financial community, etc., before "Startup"

<u>Suggestion:</u>

Time / Start the Financial Sector Program Outreach to lag lead hazard control unit production 2-4 weeks to show you have a "product" (completed units, blood tested children, educated families) yet take advantage of the freshness / excitement of the startup of your Hazard Control Phase.

ELEMENTS OF IMPLEMENTATION (Computer and Internet Access Required)

Key Steps of Strategy

The following key steps are necessary for implementing an effective *Financial Sector Outreach Program*.

First, obtain a listing of the lenders including their market share of the total deposits in your community, target area, or region (Section 1 below).

Second, compare their **CRA Ratings** and the **Performance Evaluation Reports** (Section 2 below) with their deposit market share in your community. Lenders with *low ratings and negative community reinvestment reports* as well as lenders with *high market share and average or lower ratings* should be your primary targets. Remember to also search for lenders with *lower CRA Ratings* who may not have a branch in your city but do have a Charter to operate in your county or region.

And third, you may concurrently use the local **CRA Roundtable** group (of the nearest district branch of your **Regional Federal Reserve Bank**) to access the local financial community (Section 3).

1) How to identify the lenders in your Program Area / Region

- **a)** Proceed to **FDIC** (Federal Deposit Insurance Corporation) Website Home Page [**www.fdic.gov**]
- **b)** Proceed to **Topic of Interest** and access **FDIC/OTS Summary of Deposits** [**www.2.fdic.gov/sod/**]
- **c)** Find and access **Market Share and Bank Holding Company**
- **d)** Select Your **State->County->City->Zip->** (← Recommended) or **Metropolitan Statistical Area** field and Continue
- **e)** Select for **Most Recent Data**, **State**, **Report Content** for State, County(ies), City(ies), and Zip Code(s), and **Sort By** Market Share
- **f)** Continue your selection by **County**, **City**, or **Zip Code**
- **g)** If satisfied with **Selected Criteria Summary**, then **Run Report** to obtain **Market Share Report** of all lenders in your target area / region; Note the lenders Certification [**CERT**] or Docket Number for future reference

2) Use of CRA Data to Identify Target Lenders Especially with Low CRA Ratings: Needs to Improve and Substantial Non-Compliance

a) Proceed to FFIEC **(Federal Financial Institutions Examination Council)** [**Web site: www.ffiec.gov**] for overview of and access to all four lender regulatory agencies b) Enter [**www.ffiec.gov/cra/**] to access **FFIEC Community Reinvestment Act Home Page** and proceed to / access to **Public Data** [**www.ffiec.gov/cra/publicdata.htm**]c) Access **CRA Ratings** [**www.ffiec.gov/cra/ratings.htm**] and proceed to / access [**www.ffiec.gov/cracf/crarating/main.cfmt**]

c) Enter the key information in the **Search notes** fields [select **CRA Rating** (*Needs to Improve* or *Substantial Noncompliance*), name of your **City**, **State**, **Sort by** (*CRA Rating*), **Exam Period** (*year*), and **Submit query**]

Note the **ID #**, regulatory **Agency**, and **Exam Date** of your **Banks** – you may obtain the complete CRA Rating record of the bank via the blue underlined bank name which is like a hyperlink; lenders with a *Needs to Improve* or *Substantial Noncompliance* rating should be given priority for your outreach efforts; the most current **CRA Rating** should be used to consider approaching a Bank; but a lender with a recent positive rating of *Satisfactory* or *Outstanding* and a history of poor ratings should not be overlooked for outreach efforts; start with Banks with the lowest rates first, ultimately soliciting those with a *Satisfactory* rating, as well

d) [Note: Not all of the Search fields work perfectly with the different regulatory agencies and your efforts may require some perseverance – however the data are obtainable; often more information can be obtained on lenders by using the website search capacity of their own regulatory agency]

At this juncture, you may remain in the FFIEC system or access / explore any of the other four regulatory agencies [**Please report new successful pathways with the HUD OHHLHC so the this information can be shared with other Grantees**]

3. Outreach to At-Large Financial Community

a) Target the local **"CRA Roundtable"** group of your Federal Reserve Area

(1) Access the **Federal Reserve's** (The Board of Governors of the Federal Reserve System – FRBG) website [**www.federalreserve.gov**] and proceed to / access the **Site Map** [**www.federalreserve.gov/sitemap**]

(2) Access the **Community Affairs** icon on the left column of the **Site Map** at [**www.federalreserve.gov/community**]; proceed to bottom of page to access **Community Affairs Programs in the Federal Reserve System**

(3) Access **Reserve Bank's web sites** (at bottom of page) leading to the **Federal Reserve Community Affairs Web Sites** page and select and access your State from the colored map of the Federal Reserve Bank Regions (1-12)

(4) Review / search the web site of your Federal Reserve Banking Region (each Region has its own unique web site) for key topics like **Events, Upcoming Events, Community Affairs, Community Development, Conferences, Meetings**, etc., and access

(5) Search for and access the **CRA Roundtables** link to find the nearest city / Federal Reserve Branch Bank and contact person (phone number and hyperlink)

(6) Contact/Meet with your Community Affairs Liaison about your program

(7) This process can be repeated with the Community Affairs Offices of the other three regulatory agencies, as feasible

(8) Try to get a presentation spot on the "**CRA Roundtable**" at an upcoming meeting, which is attended by bankers

(9) Prepare for your 10-30 minute presentation (a few overheads, an EBL child and parent, a non-profit rep, etc. may be useful)

(10) You will present to "CRA Officers" from local banks that fund local community development activities. Describe your project using words and phrases like "*innovative, multi-faceted project*", "*stabilizes low-income neighbor-hoods*", "*integrates several key community development activities", "preserves and enhances existing affordable housing stock*", "*protects children from a major community health problem – lead poisoning*", "*stimulates job training, business development and employment in low-income geographies*." (All of which have significant

meaning to a bank CRA Officers and their regulatory auditor who will evaluate them and assign their rating)

(11) In the meeting or any presentation with a lender, you should let them know your project needs their "Qualified Investment" or QI. Also let them know if there are any lending opportunities, which is what they prefer because they either are increasing actual loans in the low-income sector or they get their QI back ("QI With Return"). In all cases, emphasize that the QI will be received in a highly public or political setting.

(12) Try to hold your own publicity meeting for interested lenders. Participants should include:
- (a) As many Lenders as possible
- (b) Your agency head
- (c) The Mayor and / or City Council Members(s)
- (d) Press and media reps invited by your Public Relations contact.

<u>Other Considerations:</u>

1) <u>How much to ask:</u> A desperate lender with a low-CRA rating is often looking for and can afford <u>innovative projects</u> in the $5,000 - $10,000 range. Larger lenders are commonly approached for $2,500 - $5,000 requests. Sometimes a group of smaller lenders may want to give $1,000 <u>each</u> as a "grant" from their group

2) QI's should be in check form, made out to the non-profit, but <u>received</u> by the HUD Program for deposit into the "pass-through" account

3) QI's should be presented and accepted in a very <u>public</u> and high profile setting, e.g., before City Council members, parents of an EBL child, etc.

4) On a <u>quarterly</u> basis, send a written summary, including photographs, to the donating lenders (CRA Officers, bank presidents) appraising them of your project's progress, how their Qualified Investment has been expended in terms of numbers of: units made lead safe, low-income persons trained / certified /

obtained employment in the project, families given preventive education, families relocated, children and pregnant women given blood tests, proportion of units made lead safe in a given area, etc., as the result of their QI. Offer to provide a field visit surveying the work they have subsidized. Depending whether your accounting system operates from a single "pool" of funds, their QI may be viewed as having subsidized all categories of work and services from its deposit date until the next drawdown of HUD funds.

5) A regular and personalized feedback / reporting regimen with your subsidizing lenders will enhance your Project's chances of continued or future funding. CRA Managers communicate among themselves which of their subsidized programs are "successes" in terms of impacting major community problems, are accountable, have "visibility," etc. The better job your Project does in meeting their needs, the better reputation your Project will have, and the more likely it will receive increased financial support (QI's) from your local and regional financial sector community.